

CITY COUNCIL AGENDA

SEPTEMBER 13, 2005

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
VACANT
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:32 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall
Absent – Council Members: None.

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent – Council Members: None.

7:01 p.m. - Public Hearings, Council Chambers, City Hall
Absent – Council Members: Cortese (Excused).
- **Invocation (District 8)**
Sarah Stein of Ballet San José Silicon Valley, performed to music, entitled, “Italiana”.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the San José Grand Prix Heroes and the Executive Advisory Board for their generosity and service to the City of San José through making the San José Grand Prix a great success and for establishing a lasting tradition of exceptional racing in San José. (Chavez/LeZotte/Cortese)
Mayor Gonzales, Vice Mayor Chavez, and Council Member LeZotte presented a commendation to the San José Grand Prix Heroes and the Executive Advisory Board Members to honor their generosity and service towards the City of San José .

1. CEREMONIAL ITEMS

- 1.2 Presentation of commendations to Ballet San José Silicon Valley students and company members for their outstanding competitive performances at the 2005 Dance Grand Prix Italia. (Chavez/Cortese)
Vice Mayor Chavez and Council Member Cortese presented commendations to Ballet San José Silicon Valley students and company members in honor of their outstanding competitive performances at the 2005 Dance Grand Prix Italia.
- 1.3 Presentation of a commendation to Toyota for donating \$10,000 towards the construction of Calabazas BMX Park. (LeZotte)
Council Member LeZotte joined Mayor Gonzales to present a commendation to Toyota for their generous donation of \$10,000 towards the construction of Calabazas BMX Park.
- 1.4 Presentation of a commendation to O'Connor Hospital on the occasion of the inaugural gala, "Spirit of O'Connor", benefiting their new endovascular surgical suite. (Yeager) (Rules Committee referral 9/7/05)
Council Member Yeager and Mayor Gonzales presented a commendation to Robert Currie of O'Connor Hospital on the occasion of the inaugural gala, "Spirit of O'Connor", benefiting their new endovascular surgical suite.
- 1.5 Presentation of a commendation to Congregation Sinai on the occasion of the dedication of their new home. (Yeager) (Rules Committee referral 9/7/05)
HEARD IN THE EVENING
Mayor Gonzales and Council Member Yeager presented a commendation to members of Congregation Sinai on the occasion of the dedication of their new home.
- 1.6 Presentation of a commendation to the Alma Neighborhood Association for its 47 years of dedication and service to the residents of the Alma Neighborhood. (Mayor/District 7) (Orders of the Day)
Mayor Gonzales presented a commendation to Deborah Morillo and members of the Alma Neighborhood Association for its 47 years of dedication and service to the residents of the Alma Neighborhood.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of Minutes.

- (a) Closed Session Minutes of February 22, 2005.
Approved.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 27521 – Amends Chapter 3.28 of Title 3 of the San José Municipal Code to implement State Law regarding benefits for registered domestic partners and to add provisions relating to plan-approved domestic relations orders and amending section 3.44.010 of Chapter 3.44 of Title 3 of the San José Municipal Code to implement cost-of-living adjustments for surviving registered domestic partners.

Ordinance No. 27521 adopted.

- (b) ORD. NO. 27523 – Amends Chapter 3.48 and Chapter 3.50 of Title 3 of the San José Municipal Code regarding additional deferrals to the Deferred Compensation Plan and the PTC 457 Plan for those employees returning from active military service.

Ordinance No. 27523 adopted.

- (c) ORD. NO. 27524 – Amends Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code, which lists all infractions, to update the list of infractions.

Ordinance No. 27524 adopted.

- (d) ORD. NO. 27531 – Rezones certain real property situated on the east side of Almaden Road approximately 680 feet northerly of Curtner Avenue (2190 Almaden Road) to A(PD) Planned Development Zoning District. PDC03-047

Ordinance No. 27531 adopted.

- (e) ORD. NO. 27532 – Rezones certain real property situated approximately 190 feet easterly of the intersection of Blossom Hill Road and Poughkeepsie Road to CN Commercial Neighborhood Zoning District. C05-069

Ordinance No. 27532 adopted.

- (f) ORD. NO. 27533 – Rezones certain real property situated on the west side of Delmas Avenue approximately 170 feet north of Dorothy Avenue (1203 Delmas Avenue) to A(PD) Planned Development Zoning District. PDC04-099

Ordinance No. 27533 adopted.

- (g) ORD. NO. 27534 – Rezones certain real property situated on the north side of Michigan Avenue, approximately 200 feet southwesterly of Pacific Street to R-M Multiple Residence District. C05-057

Ordinance No. 27534 adopted.

- (h) ORD. NO. 27535 – Rezones certain real property situated on the southwest corner of Monterey Road and Goble Lane to A(PD) Planned Development Zoning District.

Ordinance No. 27535 adopted.

2. CONSENT CALENDAR

2.3 Approval to reject all bids for the Capitol Park Neighborhood Center Project.

Recommendation: Approval to reject all bids for the Capitol Park Neighborhood Center Project, and authorization for the Director of Public Works to re-advertise and re-bid the project with revision in the project scope. CEQA: Exempt, PP03-08-267. Council District 5. SNI: East Valley/680 Communities. (Public Works/Parks, Recreation and Neighborhood Services)
(Deferred from 8/23/05 – Item 2.9 and 8/30/05 – Item 2.8)

Approved.

2.4 Approval of the additions to the City Auditor's Travel Calendar from July 1 through December 31, 2005.

Recommendation: Approval of the additions to City Auditor's Gerald Silva's travel calendar from July 1 through December 31, 2005, at no cost to the City. (City Auditor)

Approved.

2.5 Acceptance of the Office of the City Auditor's Report of Activities and Findings for the Period June 16 through July 15, 2005.

Recommendation: Acceptance of the Office of the City Auditor's *Report of Activities and Findings for the Period June 16 through July 15, 2005*. (City Auditor)

The report was accepted.

2.6 Approval to submit the Urban Runoff Management Plan Annual Report.

Recommendation: Authorization for the submittal of the 2004-2005 Urban Runoff Management Plan Annual Report and certification to the Regional Water Quality Control Board (Water Board) in conformance with the City's Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System (NPDES) permit requirements, and pursuant to the Federal Clean Water Act. CEQA: Not a Project. (Environmental Services)

Approved.

2.7 Approval of an amendment to the Butcher Park Master Plan.

Recommendation: Approval of an amendment to the Butcher Park Master Plan to include an off-leash dog area. CEQA: Exempt, PP05-107. Council District 9. (Parks, Recreation and Neighborhood Services)

Approved.

2. CONSENT CALENDAR

2.8 Approval of actions related to the annexation of Capitol No. 52.

Recommendation: Adoption of a resolution initiating proceedings and setting October 4, 2005 at 1:30 p.m. for Council consideration on the reorganization of territory designated as Capitol No. 52 which involves the annexation to the City of San José of 0.32 acres of land more or less, located at the on the northwest corner of Wilbur Avenue and Nancy Lane and adjacent to the City of San José annexation Capitol No. 42-A and the detachment of the same from Central Fire Protection, Area No.01 (Library Services) County Services, County Lighting Services, and Sanitation District 2-3. Council District 5. CEQA: Resolution No. 65459, File No. C05-023. (Planning, Building and Code Enforcement).

Resolution No. 72878 adopted.

2.9 Approval of actions related to the annexation of Penitencia No. 72.

Recommendation: Adoption of a resolution initiating proceedings and setting October 4, 2005 at 1:30 p.m. for Council consideration on the reorganization of territory designated as Penitencia No. 72 which involves the annexation to the City of San José of 0.84 acres of land more or less, located at the on the west side of Toyon Avenue, approximately 370 feet south of Selby Lane, and adjacent to the City of San José annexation Penitencia No. 1-B and the detachment of the same from County Lighting County Services, Central Fire Protection, Area No.01 (Library Services) County Services and Sanitation District 2-3. Council District 5. CEQA: Resolution No. 65459, File No. C05-024. (Planning, Building and Code Enforcement).

Resolution No. 72879 adopted.

2.10 Approval to vacate a portion of the Light and Air Easement located at 2103 Emory Street.

Recommendation: Adoption of a resolution of intention to vacate a portion of the Light and Air Easement that lies within Lot 23 of Tract No. 703, located at 2103 Emory Street, and setting a public hearing on October 4, 2005 at 1:30 p.m. CEQA: Exempt, File No. 3-16872. Council District 6. (Public Works)

Resolution No. 72880 adopted.

2. CONSENT CALENDAR

2.11 Approval of actions related to widening portions of Quito Road and Paseo Olivos.

Recommendation:

- (a) Adoption of a resolution rescinding a prior rejection of an offer of dedication of an easement for right of way purposes, and accepting the dedication for a portion of Quito Road and Paseo Olivos in Tract No. 1298, pursuant to Government Code Section 66477.2, and authorizing the Director of Public Works to file a Certificate of Acceptance with the County Recorder's Office and execute all documents necessary to accept the offer of dedication. CEQA: Exempt, PP05-070. Council District 1. (Public Works)

Resolution No. 72881 adopted.

- (b) Adoption of a resolution approving the acceptance of quitclaim deeds that release and quitclaim any legal rights the owners may have over portions of the east side of Quito Road abutting their respective properties, and authorizing the Director of Public Works to execute any additional documents necessary to complete these transactions, from the following property owners:
- (1) Ronald R. Roessle and Julia Tsih-Leung, quitclaim of approximately 3,295 sq. ft. of the portion of Quito Road abutting their property at 12560 Quito Road (APN: 403-31-024), in the area of the proposed Quito Road street improvement project;
 - (2) Sudarshan Sarpangal, quitclaim of approximately 2,942 sq. ft. of the portion of Quito Road abutting his property at 12620 Quito Road (APN: 403-31-011), in the area of the proposed Quito Road street improvement project; and
 - (3) Michael Grady and Maria M. Grady, quitclaim of approximately 2,338 sq. ft. of the portion of their property at 12636 Quito Road (APN: 403-31-010), in the area of the proposed Quito Road street improvement project.

CEQA: Exempt, PP05-070. Council District 1. (Public Works)

Resolution No. 72882 adopted.

2.12 Acceptance of the San José Arena Authority Ticket Distribution Program Report.

Recommendation: Acceptance of the Second Quarter 2005 San José Arena Authority Ticket Distribution Program Report. CEQA: Not a Project. (San José Arena Authority/Economic Development)

The report was accepted.

2.13 Approval of travel for City Manager Del D. Borgsdorf.

Recommendation: Approval for City Manager Del D. Borgsdorf to travel to Minneapolis/Hennepin County, Minnesota, September 25-28, 2005, to attend the 2005 International City-County Management Association's Annual Conference. Funding: City Manager's Office. (City Manager's Office)

(Rules Committee referral 9/7/05)

Approved.

2. CONSENT CALENDAR

- 2.14 Approval of an agreement with the National Association of Local Government Auditors to perform an audit of the City Auditor's Office for Fiscal Years 2003-2004 and 2004-2005.**

Recommendation: Approval of an agreement with the National Association of Local Government Auditors to perform an audit of the City Auditor's Office for Fiscal Years 2003-2004 and 2004-2005. (Mayor)
(Rules Committee referral 9/7/05)

Approved.

- 2.15 Approval to modify the affordability requirements for Villa Solera Apartments**

Recommendation: Adoption of a resolution approving an increase in the number of restricted affordable units at or below 60% of Area Medium Income at Villa Solera Apartments, located at the Northwest corner of Lucretia Avenue and Vintage Way ("Development") 58 to 80, resulting in a total of 20 units restricted to tenants earning up to 50% of AMI and 80 units restricted to tenants earning up to 60% of AMI. CEQA: Negative Declaration, PDC-SH 00-10-103. Council District 7. SNI: Tully and Senter. (Housing)

ITEM 2.15 RENUMBERED FROM 4.3

Resolution No. 72883 adopted.

- 2.16 Approval to award a contract for installation of potable and non-potable water services and mains.**

Recommendation: Report on bids and award of contract for installation of potable and non-potable water services and mains 2005-2006 to the low bidder, San José Water Company, in the amount of \$548,737.84. CEQA: Exempt, PP05-130. (Environmental Services)

ITEM 2.16 RENUMBERED FROM 7.1

Approved.

3. STRATEGIC SUPPORT SERVICES

- 3.1 Report of the Study Session**
Mayor Gonzales, Chair
None.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – August 24, 2005

Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review September 6, 2005 Council Agenda
MEETING CANCELLED
 - (2) Add New Items to August 30, 2005 Agenda
The Committee recommended five additions to the August 30, 2005 City Council Agenda.
 - (3) List of Reports Outstanding
The Committee noted and filed the City Manager's Report.
- (c) Legislative Update
 - (1) State – **There were none.**
 - (2) Federal – **There were none.**
- (d) Meeting Schedules
There were none.
- (e) The Public Record
There were none.
- (f) Appointments to Boards, Commissions and Committees
There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Proposed Work Plan for Ordinance on Improved Fire Safety in Older Buildings
The Committee recommended approval of the Improved Fire Safety in Older Buildings Work Plan for the Fire Department to research and develop an ordinance for Improved Fire Safety, as amended. Staff was directed to move the public outreach component of the timeline further up in the work plan, work closely with Council Member Yeager and hold at least one of the public outreach meetings in District 6/Willow Glen. Staff was further directed to report back to the Rules Committee for further input before the drafting of the ordinance.
- (h) Oral Communications
There were none.
- (i) Adjournment
The meeting adjourned at 2:12 p.m.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – August 31, 2005 (Cont'd.)

Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review September 13, 2005 Council Agenda
The Committee recommended approval of the September 13, 2005 City Council Agenda with five additions.
 - (2) Add New Items to September 6, 2005 Agenda
MEETING CANCELLED
- (c) Legislative Update
 - (1) State
 - (a) AB 438 (Parra) and AB 1323 (Vargas) Relating to Registered Sex Offenders.
The Committee recommended a watch position on AB 438 (Parra), which would amend State law to allow a lessor of residential real property to refuse to provide housing to, or to evict, registered sex offenders whose residence must be made public on the Megan's Law website; and support for AB 1323 (Vargas), which addresses several outstanding issues since the Department of Justice placed California's Megan Law on the Internet.
 - (2) Federal
 - (a) Update on San José Federal Relations Activities.
The Committee recommended acceptance of the San José Federal Relations Activities Report.
- (d) Meeting Schedules
There were none.
- (e) The Public Record
The Committee directed the Administration to review the letter from the Pacific Autism Center for Education and determine if there is some way the City can participate with them. The Committee noted and filed the Public Record.
- (f) Appointments to Boards, Commissions and Committees
There were none.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – August 31, 2005 (Cont'd.) Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Allocation Request from the Community Gift Trust Fund.
The Committee recommended authorization of the allocation of \$507 from District 7's portion of the Community Gift Trust Fund for the following two District 7 community events:
 - (a) \$177 for City fees to close Nisich Court Tully-Senter Sound wall Grand Opening Celebration; and
 - (b) \$330 for fees and permit costs related to the Tully Community Branch Library and the Vietnamese-American Women's Association Mid-Autumn Festival.
 - (2) City Auditor's 2005-2006 Work Plan.
The Committee recommended approval of the work plan with the addition of the current assignment of the Grand Jury Response to the Recycle Plus issue.
- (h) Oral Communications
Bill Chew expressed his sympathy and concern for the citizens of the Southern United States devastated by Hurricane Katrina.
- (i) Adjournment
The meeting adjourned at 2:53 p.m.

The Rules Committee reports of August 24 and 31, 2005 were accepted. Council referred to the Rules Committee AB 438 with direction that the proposed Meghan's Law Task Force consider language that may improve the Bill and expedite its passage; along with review and consideration of other pending legislation that will improve the ability to monitor sex offenders by strengthening communications between various governmental agencies.

3.3 Report of the Making Government Work Better Committee Council Member Reed, Chair None.

3. STRATEGIC SUPPORT SERVICES

3.4 Approval of City Council response to the 2004-2005 Santa Clara County Civil Grand Jury Report regarding the Norcal Recycle Plus Agreement.

Recommendation: Approval of City Council response to Grand Jury Report regarding the Norcal Recycle Plus Agreement. (Mayor/City Manager/City Attorney)
(Rules Committee referral 8/10/05 and 8/17/05)
(Deferred from 8/16/05 – Item 3.4 and 8/30/05 – Item 3.4)

Council approved a memorandum from Vice Mayor Chavez, dated September 12, 2005, recommending direction to the City Attorney's Office to work with the presiding judge to allow a formal response to the Grand Jury report following the conclusion of the independent investigation in order to allow incorporation of its findings and recommendations with the following additional directives:

- 1) Incorporate Attachment A of Council Member Cortese' memorandum, dated September 12, 2005, as revised (delete portion of sentence in the Response to Recommendation 1 on page 3 that begins with "Although the Grand Jury' findings....are disputed,....".**
- 2) Forward to the independent investigator the nine questions outlined in Council Member Reed's memorandum, dated September 6, 2005.**
- 3) Encourage City staff, members of the Council and the Mayor's Office to forward to the City Clerk any additional questions and/or facts by the close of the business day September 20, 2005. The City Clerk was directed to bring to the Rules Committee, as part of the public record, any additional questions/facts to forward to the independent investigator.**
- 4) Waive the attorney/client privilege for the independent investigator for all related documents.**
- 5) Direct the City Attorney's Office to prepare a non-privileged log listing the titles of privileged documents for the public record.**

Noes: Reed

3.5 Independent Investigator's Status Report on the review of issues associated with Norcal garbage contract and contract amendment.

Recommendation: Acceptance of the Independent Investigator's Status Report on the review of issues associated with the Norcal garbage contract and contract amendment. (City Auditor)
(Rules Committee referral 8/10/05 and 8/17/05)
(Deferred from 8/30/05 – Item 3.5)
The report was accepted.

3. STRATEGIC SUPPORT SERVICES

3.6 Consideration of a proposed amendment to the Municipal Code, as it relates to campaign contributions.

Recommendation: Discussion and direction to staff of a proposed amendment to the Municipal Code which would provide that payments by an employer to an employee who works on municipal political campaigns, are to be treated as campaign contributions, subject to the City's campaign contribution limits and disclosure requirements. (City Attorney's Office)

(Deferred from 8/16/05 – Item 2.14)

(Rules Committee referral 8/31/05)

Deferred to 9/20/05.

3.7 Approval to issue Clean Water Financing Authority Sewer Revenue Refunding Bonds.

Recommendation:

- (1) Adoption of a resolution of the City Council:
 - (a) Authorizing the issuance of San José - Santa Clara Clean Water Financing Authority Sewer Refunding Revenue Bonds, Series 2005A (tax-exempt fixed rate) in a not to exceed amount of \$65,000,000; and Series 2005B (tax-exempt variable rate) in a not to exceed amount of \$30,000,000, (collectively the "Bonds").
 - (b) Approving in substantially final form and authorizing the execution, as applicable, of the Second Amendment to the Improvement Agreement, two Preliminary Official Statements, two final Official Statements, Master Indenture, First Supplemental Indenture, Second Supplemental Indenture, Continuing Disclosure Agreement, Standby Bond Purchase Agreement, one or more Escrow Agreements, Financial Guaranty Agreement, Bond Purchase Agreement, Remarketing Agent Agreement, one or more Payoff Agreements with Tributary Agencies and authorizing the City Manager, Director of Finance or their designees to execute and, as appropriate, to negotiate and deliver these documents and other related financing documents and to take other actions as necessary in connection with the issuance of the Bonds.
 - (c) Authorizing the City Attorney to negotiate and execute an Agreement with Nixon Peabody LLP for bond and disclosure counsel services in an amount not to exceed \$200,000.

Resolution No. 72884 adopted.

3. STRATEGIC SUPPORT SERVICES

3.7 Approval to issue Clean Water Financing Authority Sewer Revenue Refunding Bonds. (Cont'd.)

Recommendation:

- (2) Adoption of the following appropriation ordinance amendments in the San José-Santa Clara Treatment Plant Capital Fund:
- (a) Decrease the appropriation titled "Transfer for 1995 Series A, B & C Bonds to be made on or about May 15" by \$455,653.
 - (b) Establish an appropriation titled "Transfer to the Clean Water Financing Authority for Series 2005A and Series 2005B Bond Expenses" in the amount of \$455,653.
 - (c) Change the title of the appropriation titled "Transfer for 1995 Series A, B & C Bonds to be made on or about November 15" to "Transfer for 1995 Series A, B & C Bonds to be made on or before November 15."

Ordinance No. 27536 adopted.

- (3) Adoption of the following appropriation ordinance amendments in the Sewer Service and Use Charge Fund:
- (a) Decrease the appropriation titled "Transfer to the Clean Water Financing Authority (for 1995 Series A, B, & C Bonds) on or before November 15" by \$53,267.
 - (b) Decrease the appropriation titled "Transfer to the Clean Water Financing Authority (for 1995 Series A, B, & C Bonds) on or before May 15" by \$1,856,401.
 - (c) Establish an appropriation titled "Transfer to the Clean Water Financing Authority for Series 2005A and Series 2005B Bond Expenses" in the amount of \$1,909,668

CEQA: Not a Project. (Finance/City Manager's Office/Environmental Services)
(Deferred from 8/30/05 – Item 3.6)

Ordinance No. 27537 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chirco, Chair None.

4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair None.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Approval to modify the affordability requirements for Villa Solera Apartments.

Recommendation: Adoption of a resolution approving an increase in the number of restricted affordable units at or below 60% of Area Medium Income at Villa Solera Apartments, located at the Northwest corner of Lucretia Avenue and Vintage Way ("Development") 58 to 80, resulting in a total of 20 units restricted to tenants earning up to 50% of AMI and 80 units restricted to tenants earning up to 60% of AMI. CEQA: Negative Declaration, PDC-SH 00-10-103. Council District 7. SNI: Tully and Senter. (Housing)

SEE ITEM 2.15 FOR COUNCIL ACTION TAKEN

4.4 Approval of revisions to the Teacher Homebuyer Program.

Recommendation: Adoption of a resolution modifying the Teacher Homebuyer Program adopted by the City Council on April 4, 2000, and amended on December 16, 2003, as follows:

- (a) Increase the maximum loan amount from \$25,000 to \$40,000 for teacher households earning between 90% and 120% of Area Median Income.
- (b) Increase the maximum loan amount from \$40,000 to \$65,000 for teacher households earning less than 90% of Area Median Income.

CEQA: Not a Project. (Housing)
(Rules Committee referral 8/31/05)
Deferred to 9/20/05.

5. NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair None.

5.2 Approval to award a contract for the Emma Prusch Park Project.

Recommendation:

- (a) Report on bids and award of contract for the Emma Prusch Park Project to the low bidder, Robert A. Bothman, Inc., in the amount of \$1,179,282, and approval of a contingency in the amount of \$117,928.

Approved.

- (b) Adoption of the following appropriation ordinance amendments in the Parks and Recreation Bond Projects Fund:
 - (1) Increase the Emma Prusch Memorial Park Project by \$150,000;
 - (2) Decrease the Contingency Reserve by \$150,000.

CEQA: Exempt, PP02-04-072. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)
(Rules Committee referral 9/7/05)

Ordinance No. 27538 adopted.

6. TRANSPORTATION & AVIATION SERVICES

- 6.1 Report of the Building Better Transportation Committee**
Council Member Campos, Chair
None.

7. ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Approval to award a contract for installation of potable and non-potable water services and mains.**

Recommendation: Report on bids and award of contract for installation of potable and non-potable water services and mains 2005-2006 to the low bidder, San José Water Company, in the amount of \$548,737.84. CEQA: Exempt, PP05-130. (Environmental Services)

SEE ITEM 2.16 FOR COUNCIL ACTION TAKEN

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 2:20 p.m. to consider Item 9.1, 9.2, 9.3 and 9.4 in a Joint session.

- 9.1 Approval to purchase insurance policies.**

Recommendation: Adoption of a resolution authorizing the Director of Finance to purchase insurance policies for the period October 1, 2005 to October 1, 2006, at a cost not to exceed \$2,700,000. CEQA: Not a Project. (Finance/Redevelopment Agency)

Resolution No. 72885 adopted.

- 9.2 Approval of actions related to the North San José Area Development Policy.**

Recommendation: Acceptance of a report and approval of direction to proceed with a workplan for implementation of actions related to adoption of the North San José Area Development Policy. CEQA: EIR, Resolution No. 72768. Districts 3 and 4. (Planning, Building and Code Enforcement/Economic Development/Transportation/Redevelopment Agency)

(Referred from 6/21/05 – Item 12.2)

HEARD IN THE EVENING

Approved, with direction for staff to integrate historic resources within the project workplan.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.3 Approval of actions related to the 4th Street Parking Garage evening parking rates.

Recommendation: Adoption of a resolution to amend the Master Parking Rate Schedule establishing evening parking rates at the 4th Street Parking Garage.

(Transportation/Redevelopment Agency)

(Rules Committee referral 8/31/05)

Deferred to 9/20/05.

9.4 Approval of actions in response to the Hurricane Katrina Disaster, including a City Donation to the local Santa Clara Valley American Red Cross in the amount of \$500,000 and sending additional personnel as requested by FEMA to assist with rescue and recovery efforts in the Gulf Coast region, among other actions.

Recommendation: Approval of actions in response to the Hurricane Katrina Disaster, including a City Donation to the local Santa Clara Valley American Red Cross in the amount of \$500,000 and sending additional personnel as requested by FEMA to assist with rescue and recovery efforts in the Gulf Coast region, among other actions. (Mayor)

(Rules Committee referral 9/7/05)

HEARD IMMEDIATELY FOLLOWING THE CONSENT CALENDAR

Council approved a memorandum from Mayor Gonzales, Vice Mayor Chavez, and Council Member Campos, dated September 9, 2005, recommending the following actions: (1) Donate up to \$500,000 (approximately \$0.50 per San José resident) to the Santa Clara Valley Red Cross to support relief and recovery assistance locally. This funding commitment should be connected to the opening of a local evacuee assistance and recovery center, or in meeting the needs of registered FEMA evacuees arriving in San José. This contribution should be held in a designated fund for the local Red Cross to be used when their local funds for this purpose have been exhausted. We also recommend that the Santa Clara Valley Red Cross track how these funds are used to benefit evacuees of the Gulf Coast hurricane disaster and report regularly to the City. (2) Encourage our neighboring communities throughout Santa Clara Valley along with the County of Santa Clara to join us in contributing to the relief effort by donating a similar amount per resident to the Santa Clara Valley Red Cross local Hurricane Katrina relief effort. (3) Direct the City Manager to expand the City's Military Leave Program to include City employees who are called up and deployed through the National Guard or Reserve to assist with Hurricane Katrina recovery and relief efforts. (4) Direct the City Manager to send additional public safety personnel as requested by FEMA to assist with rescue and recovery efforts in the Gulf Coast region. Resources deployed should be based on specific requests from FEMA, through the State of California or the activation of mutual aid plans. (5) Delegate authority to the City Manager to approve leave time for City employees skilled to respond and assist with recovery and rebuilding efforts in the Gulf Coast, based on FEMA emergency response needs and requests through appropriate professional associations.

(Item continued on next page.)

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.4 Approval of actions in response to the Hurricane Katrina Disaster, including a City Donation to the local Santa Clara Valley American Red Cross in the amount of \$500,000 and sending additional personnel as requested by FEMA to assist with rescue and recovery efforts in the Gulf Coast region, among other actions. (Cont'd.)

The City Manager should work with the Agency Director and the City Attorney to identify employees with skills who might be available for such services. (6) Direct the City Manager to report back to the City Council in one week with an initial cost assessment for carrying out items 4 and 5, with a recommendation for funding for the City Council to consider.

The Redevelopment Agency Board portion of the meeting adjourned at 3:00 p.m.

- Closed Session Report
None.
- Notice of City Engineer's Pending Decision on Final Maps
In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9705	S/s of East San Antonio Street, at South 34 th Street	5	DKB Homes	19 Units	SFDR	Approve
9710	570 Hillsdale Ave.	10	Lago Di Como Development	26 Units	SFA	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9712	S/s of San Antonio Rd., 270' e/o King Road	5	Core Companies	24 Units	Single-Family

- Open Forum—
 - (1) Ross Signorino expressed safety concerns regarding the New Council Chambers.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing.

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar items.

Recommendation:

- (a) Consideration of approval of an ordinance on Planning Director Initiated Conforming Rezoning from CG Commercial General Zoning District to CP Commercial Pedestrian Zoning District on a 0.607 gross acre site, located at the northwest corner of The Alameda and North Morrison Avenue (955 The Alameda) (Richard S. Campisi Trust, Victor Lo Bue Trustee, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommend approval. No Planning Commission action required.
C05-084 - District 6
Ordinance No. 27539 passed for publication.
- (b) Consideration of approval of an ordinance on Planned Development Rezoning from R-1-8 Residential District to the A(PD) Residential District to allow 3 single family detached residences on a 0.65 gross acre site, located on the south side of Moorpark Avenue approximately 100 feet east of Clover Avenue (2830 Moorpark Ave.) (Stephen D. and Maude M. Mason, Trustee, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).
PDC05-062 - District 6
Ordinance No. 27540 passed for publication.
- (c) Consideration of approval of an ordinance on Conforming Conventional Rezoning from CO Commercial Office to CN Commercial Neighborhood to allow development standards and uses consistent with neighborhood commercial development on a 0.28 gross acre site, located at/on the north side of Tully Road, approximately 0- feet easterly of Lanai Avenue (1605 Tully Road) (Viray Christopher, et al, Owner). SNI: K.O.N.A., West Evergreen. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommend approval. No Planning Commission action required. CEQA: Resolution No. 65459.
C05-054 - District 7
Ordinance No. 27541 passed for publication.

11. PUBLIC HEARINGS

11.2 Rezoning from CG Commercial General Zoning District to allow commercial uses on a 0.99 gross acre site.

Recommendation: Public Hearing on and consideration of approval of an ordinance on a rezoning from CG Commercial General Zoning District to DC Downtown Primary Commercial Rezoning to allow commercial uses on a 0.09 gross acre site, located at/on the northwest corner of N. 2nd Street and Devine Street (257 N 2nd St.) (Fazekas Daryl, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2). CEQA: Resolution No. 65459.

C04-067 - District 3

(Continued from 8/16/05 – Item 11.3)

Deferred to 10/4/05.

11.3 Planned Development Rezoning to allow up to from IP Industrial Park Zoning District to A(PD) Planned Development Rezoning to allow up to 109 single-family attached residences and the demolition of existing industrial buildings on a 4.0 gross acre site.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 109 single-family attached residences and the demolition of existing industrial buildings on a 4.0 gross acre site, located on the northeast corner of Autumnvale Drive and Trade Zone Blvd. (2450 Autumnvale Dr.) (Autumnvale Associates, Inc., Adams Capital Management Co. Edwin Kawamoto, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval with Planning Commission modifications. Planning Commission recommends approval of the proposed rezoning with the conditions recommend in the staff report with the following revisions (4-2-1-0):

- (a) Modify the proposed Development Standards to eliminate the 10% reduction in the parking requirement to require that parking be provided at a rate of 2.7 spaces per unit (versus 2.4 spaces per unit).
- (b) Require that private yards be provided according to the Residential Design Guideline standards for Garden Townhomes of 300-square foot per unit.

PDC04-109 - District 4

(Continued from 8/16/05 – Item 11.8 and 8/30/05 – Item 11.2)

Ordinance No. 27542 passed for publication.

11. PUBLIC HEARINGS

11.4 Planned Development Rezoning from R-1-8 Residential District to the A(PD) Residential District.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-1-5 and R-1-8 Residential Districts to A(PD) Planned Development District to allow 7 single family detached residences on a 0.98 gross acre site, located on the south side of Neal Avenue, approximately 245 feet east of South Winchester Boulevard (3030-3040 Neal Ave.) (Neal 3030 LLC, Owner/Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2-0).

PDC05-058 - District 6

Ordinance No. 27543 passed for publication.

11.5 Planned Development Rezoning from R-M Zoning District to A(PD) Planned Development Zoning District.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-M Zoning District to A(PD) Planned Development Zoning District to construct 5 single family attached residences on a 0.34 gross acre site, located on the south side of Curtner Avenue, approximately 250 feet westerly of Joseph Avenue (482 Curtner Ave.) (Carolyn L. Bartlett, Trustee, Golkar Pejman, Owner/Developer). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-2-1-0).

PDC05-038 - District 9

Ordinance No. 27544 passed for publication.

- **Open Forum**

- (1) **Mark Trout expressed religious viewpoints.**

- **Adjournment**

- The Council of the City of San José adjourned at 7:36 p.m. in memory of Lew Platt, former CEO of Hewlett-Packard.**

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

The City Council convened at 4:17 p.m. to consider items 8.1 – 8.2 in a joint session

8.1 Public Hearing and approval of the Mayor's Budget Message.

Recommendation: Public Hearing and City Council and Redevelopment Agency Board consideration and approval of the Mayor's Budget Message.
(Mayor)

HEARD WITH ITEM 8.2

The Public Hearing was held and Council approved a memorandum from Mayor Gonzales, dated September 7, 2005, recommending the Redevelopment Agency Board approve the proposed Redevelopment Agency Capital Improvement Program and the 2005-2006 Capital/Program Budget, incorporating the specific recommendations within the memorandum.

8.2 Approval of the FY 2006-2007 Capital Improvement Program.

Recommendations:

(a) Adoption of resolutions by the Redevelopment Agency Board:

- * (1) Approving the FY 2006-2007 Capital Improvement Program; and,
- (2) Amending the FY 2005-2006 Operating and Capital Budget; and,
- (3) Amending the FY 2005-2006 Appropriations Resolution and Revenue Resolution to reflect various modifications to the FY 2005-2006 Revenue, Operating and Capital Budgets.

Redevelopment Agency Board Resolution No. 5642, 5643, and 5644 adopted.

- * (b) Adoption of a resolution by the City Council making certain determinations regarding the expenditure of Agency funds on public improvements specified in the FY 2005-06 Capital Budget.

Resolution No. 72886 adopted.

HEARD WITH ITEM 8.1, SEE FOR COUNCIL ACTION TAKEN.

The City Council adjourned the Joint Redevelopment Agency Board/City Council meeting at 4:30 p.m.